

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition No.: 42-019-15-1-5-01652-16
Petitioner: Kyle Allen
Respondent: Knox County Assessor
Parcel No.: 42-08-17-402-020.000-019
Assessment Year: 2015

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The subject property is located at 831 West 6th Street in Bicknell, Indiana.
2. Kyle Allen filed a Form 130 with the Knox County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued a determination valuing the property as follows:

Year	Land	Improvements	Total
2015	\$2,100	\$21,500	\$23,600

3. Allen timely filed the Form 131 petition with the Board, electing to have his appeal heard under the Board’s small claims procedures. The Assessor did not elect to remove.
4. The Board’s designated Administrative Law Judge (“ALJ”), Timothy Schuster, held a hearing on January 30, 2018. Neither he nor the Board inspected the property.

Record

5. Kyle Allen represented himself and Catherine Lane represented herself in her capacity as Knox County Assessor.
6. The following individuals testified under oath: Kyle Allen, taxpayer; Catherine Lane, Knox County Assessor.
7. Allen offered no exhibits. The Assessor offered the following exhibits:

Respondent Exhibit 1: Valuation history spreadsheet,
Respondent Exhibit 2: 2015 subject property record card (“PRC”),

Respondent Exhibit 3: 2015 PRC for 613 West 6th Street,
Respondent Exhibit 4: 2015 PRC for 611 West 6th Street,
Respondent Exhibit 5: 2015 PRC for 828 West 6th Street,
Respondent Exhibit 6: 2015 PRC for 729 West 6th Street,
Respondent Exhibit 7: 2015 PRC for Allen’s vacant lot.

8. The record also includes the following: (1) all pleadings, briefs, and documents filed in the current appeal, (2) all orders, notices, and memorandum issued by the Board or ALJ, and (3) the digital recording of the hearing.

Contentions

9. Summary of the Petitioner’s case:
- a. Kyle Allen argued that the subject property was over-assessed. Old National Bank (“ONB”) acquired the property as a “repo” in August 2013 and initially listed the property for \$11,500. Allen ultimately bought the property in February 2014 for \$6,500. He made his offer based on an estimate from Ron Ackman. He also testified that there was another buyer interested in the property. *Allen testimony; Resp’t Ex. 2.*
 - b. At the time of purchase, the subject property suffered from a number of problems. These included woody bee damage, moldy drywall, broken water pipes, a termite infestation, and an aging roof. *Allen testimony.*
10. Summary of the Respondent’s case:
- a. The Assessor testified that the assessment was accurate and fair and that there are no errors on the PRC. She did not ask for an increase in the assessment. *Lane testimony.*

Burden of Proof

11. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year’s assessment for the same property, or (2) the taxpayer successfully appealed the prior year’s assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See I.C. § 6-1.1-15-17.2(a), (b) and (d).* If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year’s level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. *See I.C. § 6-1.1-15-17.2(b).* Allen conceded the burden of proof. We agree with Allen’s concession and find that the burden of proof remains with him. *Allen testimony.*

Analysis

12. Indiana assesses real property based on its true tax value, which the Indiana Department of Local Government Finance (“DLGF”) defines as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” I.C. § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 Ind. Admin. Code 2.4-1). Parties may offer evidence that is consistent with the DLGF’s definition of true tax value. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will be probative. *See Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer actual construction costs, sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally acceptable appraisal principles. *Id.*; *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties’ assessments in property-tax appeals).
13. Allen’s testimony established that the subject property was in poor condition when he purchased the property. He did not testify about its condition as of the assessment date. But general statements about a property’s condition are insufficient to warrant a reduction in the assessment. Instead, a taxpayer must offer reliable market-based evidence to prove the value of the property. *Id.* In this case, the only market-based evidence Allen offered was his testimony about the price he paid for the subject property.
14. We note that the subject property was a “repo” sold by a bank. Generally, a property acquired by a bank, and then sold to a new party may not reflect market value. A sale from a bank to a new party is not necessarily invalid, but we must proceed with caution. *See IAAO Standard on Ratio Studies, version 17.3* at 74 (July 2007) (incorporated by reference at 50 IAC 27-1-4.) We are cautious because banks may be atypically motivated sellers for a variety of reasons because they are not normally in the business of buying and selling property. *See 125 Monitor Street, LLC v. Jersey City*, 21 N.J. Tax 232, 240-241 (N.J. Tax Ct. 2004) (discussing why “[t]ypically in bank sales, the circumstances surrounding the sale may indicate a depressed price of a property”).
15. Allen offered some evidence to counterbalance these concerns, such as his testimony that the property was marketed and that there was another interested buyer. But there is no evidence that establishes the subject property was in the same condition as of the assessment date as it was on the sale date. Nor is there any evidence relating that sale price to the 2015 assessment date. We find these facts render the sale of the subject property unreliable as evidence of value.
16. Thus, we find Allen failed to make a prima facie case for any reduction in his assessment. Where the Petitioner has not supported its claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003). Thus, we order no change to the assessment.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Board orders no change to the assessment.

ISSUED: April 25, 2018

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court’s rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court’s rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.